



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
JUN 18 2015

201537032

Uniform Issue List: 408.03-00

T. E. P. R. A. T. I

Legend

Taxpayer A =

Roth IRA B =

Account C =

Financial Institution D =

State E =

Financial Advisor E =

Amount 1 =

Dear :

This is in response to your request dated November 6, 2014, as supplemented by correspondence dated April 15, 2015, and May 13, 2015, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that he received a distribution equal to Amount 1 from Roth IRA B, which was maintained by Financial Institution D. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by

408(d)(3)(A) of the Code was due to financial institution error and incorrect advice from Taxpayer A's financial advisor, Financial Advisor E.

Taxpayer A maintained Roth IRA B with Financial Institution D. Taxpayer A wanted to invest the assets of Roth IRA B in a limited liability company he formed under the laws of State E. Because Financial Institution D did not permit self-directed investments, Taxpayer A contacted another IRA custodian to set up a self-directed Roth IRA account. Taxpayer A's Financial Advisor E misinterpreted the forms supplied by the prospective self-directed Roth IRA custodian and believed that the rollover could be made to, and held indefinitely in, Account C, a non-Roth IRA account maintained by Financial Institution D. On August 7, 2012, the funds in Roth IRA B, equal to Amount 1, were transferred to Account C rather than a self-directed Roth IRA account. Financial Institution D also misunderstood the process and used Code G (rollovers) on the Form 1099-R in reporting the transfer of Amount 1 from Roth IRA B to Account C, both of which were maintained by Financial Institution D.

Taxpayer A represents that Amount 1 has not been used for any other purpose. Taxpayer A submitted a letter from Financial Advisor E stating that he was responsible for the failure to satisfy the 60-day rollover requirement with respect to the distribution of Amount 1.

Based on the above facts and representations, Taxpayer A requests that the Service waive the 60-day rollover period under section 408(d)(3) of the Code with respect to the distribution of Amount 1 from Roth IRA B.

Section 408(a) of the Code defines an IRA to mean a trust created or organized in the United States, and requires that the trustee be a bank or an approved non-bank trustee.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money or any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary of the Treasury may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Section 408A(c)(6) of the Code provides that no rollover contribution may be made to a Roth IRA unless it is a qualified rollover contribution.

Section 408A(e)(1) of the Code provides that the term "qualified rollover contribution" means a rollover contribution to a Roth IRA from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3).

Rev. Proc. 2003-16, 2003-4 I.R.B. 359, provides that the Service will issue a ruling waiving the 60-day rollover requirement in cases where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster or other events beyond the reasonable control of the taxpayer. In determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The Service has the authority to waive the 60-day rollover requirement where the individual failed to complete a rollover to another IRA within the 60-day rollover period because of one of the factors enumerated in Rev. Proc. 2003-16, for example, errors committed by a financial institution, death, hospitalization, postal error, incarceration, and/or disability.

The information and documentation submitted by Taxpayer A are consistent with his assertion that the failure to accomplish a rollover of Amount 1 from Roth IRA B into another Roth IRA within the 60-day period prescribed by 408(d)(3)(A) of the Code was due to financial institution error on the part of Financial Institution D and incorrect advice from Taxpayer A's financial advisor.

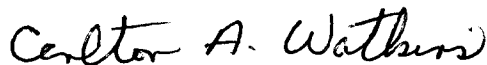
Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from Roth IRA B. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 1 into a Roth IRA. Provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contributions, Amount 1 will be considered a rollover contribution within the meaning of section 408(d)(3).

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact
at . Please address all correspondence to .

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:
Notice of Intention to Disclose
Deleted copy of this letter